

UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO

IN THE MATTER OF:

ELIZABET VEGA
Debtor

CASE NO: 21-479 (MCF)

CHAPTER 13

OPPOSITION TO ANSWER TO DEBTOR’S OBJECTION TO CLAIM 3

Comes now, Debtor/Petitioner Elizabet Vega, through her undersigned counsel, and to the Honorable Court very respectfully alleges and prays as follows:

1. On April 26, 2021, secured creditor First Bank Puerto Rico (“FBPR”) filed a Proof of Claim (“POC”) in which it claims that, in addition to \$14,912.00 in principal and interest on pre-petition arrears on mortgage payments, the petitioner owes \$2,626.88 in “[p]repetition fees due.” See POC no. 3, p. 4.
2. On May 6, 2021, the debtor objected to the claim because FBPR included items (see id., p. 7) – such as “BANKRUPTCY COST” (\$400.00), “MISC EXPENSES REPAY” (\$744.50), “LATE CHARGE” (\$99.76), “PROPERTY PRESERV” (\$12.50) and “ATTORNEY EXP REPAYMT” (\$796.50) – for which there is no explanation of them or their need, no evidence of them or what benefit they provided to the Debtor, or any justification for why the Debtor should pay for something she did not expressly agree to; therefore, FBPR is not entitled to these fees and costs. See Travelers Casualty and Surety Company of America v. Pacific Gas and Electric Company, 549 U.S. 443 (2007).
3. Additionally, the proof of claim was not supported by proper documentation, and

- therefore, fails to comply with Rule 3001 adequately. A proof of claim requires a creditor to specifically state what charges are being made, and the purpose and supporting documents must accompany the proof of claim. A proof of claim is signed under oath and must represent accurate information.
4. On June 8, 2021, FBPR answered to the debtor's objection, but offered nothing new. It essentially repeated the list of demands included in the POC but did nothing to explain the need for them or why the debtor should pay these exorbitant amounts. Furthermore, FBPR once again failed to submit any evidence to support these demands. Its "evidence" consists of a list of the alleged costs and expenses. That is it.
 5. If anything, FBPR now has more explaining to do. For example, FBPR claims \$400 in attorney's fees and a separate amount of \$796.50 in attorney expenses. It does not explain what these attorney expenses are or how they differ from the attorney fees claimed. Another example, FBPR refers to foreclosure costs registered in its system but fails to explain these alleged costs or produce a printout (or similar evidence) of the bank's own system. Yet another example is a lack of explanation or evidence for 2 separate sets of "late charges."
 6. Lastly, and perhaps most importantly, the creditor fails to cite any legal authority or contractual obligation to support its contention that the debtor should pay for all these alleged costs and expenses.

WHEREFORE, the debtor respectfully requests that this Honorable Court grant her partial objection to FBPR's claim 3 and disallow the \$2,626.88 in alleged unspecified and/or unsupported prepetition fees. The debtor does not object to the rest of the claim.

NOTICE: Within thirty (30) days of service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the clerk's office of the United States Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the objection will be deemed unopposed and may be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the court, the interest of justice requires otherwise. If you file a timely response, the court may schedule a hearing.

RESPECTFULLY SUBMITTED. In San Juan, PR, July 1, 2021.

I HEREBY CERTIFY: On this same date I electronically filed the foregoing document with the clerk of the Court using the CM/ECF System which will send notification of such filing to the Trustee and to creditors and parties in interest. Additionally, a copy of this document is being mailed to claimant's address of record: First Bank Puerto Rico, PO Box 9146, San Juan PR 00908.

/s/German Rieckehoff

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